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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,159	12/08/2003	Richard J. Schneider	AC00053-001 (26668-58)	5096
73824 7590 03/24/2010 Armstrong Teasdale LLP (IGT - 26668) Robert B. Reeser, III One Metropolitan Square, Suite 2600 St. Louis, MO 63102				
EXAMINER				
LEIVA, FRANK M				
ART UNIT		PAPER NUMBER		
3714				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

Office Action Summary

Application No.

10/731,159

Applicant(s)

SCHNEIDER ET AL.

Examiner

FRANK M. LEIVA

Art Unit

3714

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-32, 49-51, 53, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-32, 49-51, 53, 56 and 57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. The examiner acknowledges amendments to claims 1, 49 and 53; and newly canceled claim 54 in applicant's submission filed 01 December 2009.

Response to Arguments

2. Applicant's arguments filed 01 December 2009 have been fully considered but they are not persuasive. Arguments considered below;
3. The argument on page 8 of applicant's remarks; *"Moreover, Applicants respectfully traverse the assertion on page 6 of the Office Action that Wolfe and Acres describe the above recitations. Specifically, Applicants respectfully submit that no combination of Wolfe and Acres describes nor suggests that if an unenrolled player chooses not to enroll in a player tracking system, the unenrolled player will be notified after an occurrence of a subsequent triggering event, wherein a frequency of notifications to the unenrolled player during continued play is adjustable. Rather, Wolfe merely describes using a handheld device to locate a hot player that has inserted a pre-selected amount of money into a gaming machine within a certain time period, and offering to enroll the player into a customer loyalty program."* First, Wolfe paragraph [0118] covers that a player may play with or without a card, thus if a player is playing without a card, he/she has chosen to play without enrolling in the program. Second, paragraph [0118] also covers the trigger events that creates a hot player, and paragraph [0119], covers notifying the uncarded hot player of an offer to enroll. The adjustments on the trigger event are covered in paragraph [0118] with the user settings.
4. The argument on page 9 of applicant's remarks; *"Moreover, Wolfe describes using the handheld device to access "flash reports" that outlines profitability of the casino floor at certain time intervals. However, Wolfe does not describe nor suggest using such reports to determine whether unenrolled players are present in the casino or whether any trigger events have occurred."* Wolfe paragraph [0118] describes in detail the report notifying the user

not only that an unenrolled player is playing, but the trigger data that will call to the attention of the user, such as "hot Player" classification.

5. The argument on page 9 of applicant's remarks; *"In addition, Acres does not describe nor suggest a frequency of notifications to an unenrolled player during continued play. Rather, Acres merely describes awarding a credit to a player's account for a special date such as a birthday, an anniversary, and the like."* Acres column 8, lines 1-20 the casino can condition bonuses be paid only to carded players or partially to uncarded players and thus frequently notifying the player of the error or losses incurred for not having signed up, every time the bonus appears.

6. The argument on page 9 of applicant's remarks; *"Furthermore, Applicants respectfully traverse the assertion on page 2 of the Office Action that Wolfe describes permitting the unenrolled player to play a gaming device using an unenrolled player account at paragraph [0118]. Specifically, Applicants respectfully traverse the assertion that Wolfe describes creating an account or file for use in tracking play by uncarded players. Applicants respectfully submit that Wolfe does not describe, suggest, or even mention creating such an account. Moreover, Applicants submit that the Examiner has not shown any language in Wolfe that supports such an assertion."* As described in Wolfe paragraphs [0117]-[0119], and covered on applicant's statement, Wolfe keeps account of all the play for a certain amount of time, as described by Wolfe is a session. A session starts the moment a player inserts money and continues to play until he/she stops playing, the system in order to assess the uncarded player's worth, keeps track of *"including, but not limited to averages per hour, coins played, games played, total revenue, session time, denomination, and dollars played."* Therefor inherently keeping the information together (stored, filed, saved, or accounted) in an account and tallied for each session of play of a machine in order to calculate Hot players that are not carded. Thus the system must create files or accounts for session play with or without card accounts.

7. The argument on page 12 of applicant's remarks; *"No combination of Wolfe, Acres, and Walker describes nor suggests a method of registering an unenrolled player in a player tracking system, as recited in Claim 1. More specifically, no combination of Wolfe, Acres, and Walker describes nor suggests permitting the unenrolled player to play a gaming device using an*

uncarded player account. Moreover, no combination of Wolfe, Acres, and Walker describes nor suggests notifying the unenrolled player after the occurrence of a subsequent triggering event in response to an election by the unenrolled player not to enroll in the player tracking system, wherein a frequency of notifications to the unenrolled player is adjustable." As covered above, Wolf and Acres cover all the limitations of claim 1, making this argument not persuasive.

8. The argument on page 14 of applicant's remarks; *"No combination of Wolfe, Acres, and Benoy describes nor suggests a method of registering an unenrolled player in a player tracking system, as recited in Claim 1."* As covered above Wolfe and Acres do cover the limitations of claim 1, without the use of Benoy, making this argument not persuasive.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 1, 3-10, 23-24, 49-51, 53 and 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe et al (US 2004/0002386 A1) in view of Acres (US 6,371,852 B1).**

11. Regarding the analogous combination; **Wolfe** discloses a wireless casino player tracking system that tracks play on the floor of players that have not been registered into the system; and **Acres** discloses a method for adding incentive to enroll into a player tracking account system.

12. **Regarding claims 1 and 49;** Wolfe discloses a method of registering an unenrolled player in a player tracking system, comprising:

permitting the unenrolled player to play a gaming device using an uncarded player account, (§ [0118]).

detecting a triggering event, (§ [0117]), Qualifying for "hot player" status.

notifying the unenrolled player after the occurrence of the triggering event; and allowing the unenrolled player to enroll in the player tracking system in response to the notification, (§ [0118-0119]);

Wolfe fails to disclose enrollment incentives whereas Acres discloses the very well-known marketing tool of enrollment incentives by awarding the unenrolled player enrollment incentives for enrolling, (abstract, col. 1:49-51 and col. 7:24-26).

presenting the unenrolled player with enrollment incentives that the unenrolled player would have earned if enrolled in the player tracking system, (col. 7:24-30);

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the player tracking enrollment incentive of Acres into the unenrolled player tracking system of Wolfe to predictably entice the player into forwarding his/hers information and participate in the card system. Also it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to promote such an expensive feature by letting the players know that there is an advantage to playing while carded, as shown in Acres (col. 8:4-8), where players that are enrolled would get a higher amount of bonus award than those not in the system. This goes without saying that all promotional aspects in a casino are well advertised to maximize effect; it serves no purpose to award bonuses if people are not aware of their existence. So presenting, showing, or warning that the player may win a larger amount if enrolled in the system is obvious and part of the normal operation of any marketing tool.

13. Regarding claim 3; Wolfe discloses wherein the detecting a triggering event comprises detecting, by the player tracking system, that a triggering event has been detected and prompting a casino employee present at the gaming device to contact the unenrolled player, (§ [0118]).

14. **Regarding claim 4;** Wolfe discloses wherein a plurality of unenrolled players play a plurality of gaming devices, (§ [0117]), wherein carded and uncarded players can play.
15. **Regarding claim 5;** Wolfe discloses wherein the plurality of gaming devices are networked together, (§ [0117]), the information is accumulated by the tracking system.
16. **Regarding claim 6;** Wolfe discloses wherein the triggering event corresponds to an unenrolled player among the plurality of players having a highest level of player rating, (§ [0117]).
17. **Regarding claim 7-8;** Wolfe discloses wherein the triggering event is a random occurrence, (§ [0018]), randomly occurring Jackpots events or random promotions such as "Hot Seat".
18. **Regarding claim 9;** Wolfe discloses wherein the triggering event is a predetermined occurrence, (§ [0172]).
19. **Regarding claim 10;** Wolfe discloses wherein notifying the unenrolled player comprises soliciting the unenrolled player to enroll in the player tracking system, (§ [0119]).
20. **Regarding claim 23;** Wolfe discloses wherein the unenrolled player is allowed to enroll with the assistance of casino personnel, (§ [0119]).
21. **Regarding claim 24;** Wolfe discloses wherein casino personnel approach the unenrolled player after the occurrence of the triggering event.
22. **Regarding claims 50-51;** Wolfe and Acres discloses all the limitation of claim 49 from which claims 50-52 depend on and Wolfe also discloses wherein said at least one

server is further configured to enroll the at least one unenrolled player in said player tracking system; wherein said at least one server is further configured to award a bonus, (¶ [0138] – [0139]), awarded comps (bonuses).

23. Regarding claims 53; Wolfe discloses wherein if the unenrolled player chooses not to enroll in the player tracking system, said method further comprises: tracking continued play of the unenrolled player, (¶ [0119 and 0171]), wherein if the player has the choice to apply for the players card but if refuses, simply returns to be an uncarded player whose play is tracked on the floor and if he/she becomes a hot player again (trigger event), a hostess will be assigned to communicate or interact with the player. Wolfe fails to disclose sign up incentives, but Acres discloses the well-known methods of sign up award incentives and multiple comps available to entice the players and offering alternative enrollment incentives for enrolling based on the continued play, (col. 1:49-51 and col. 7:24-26).

24. Regarding claim 56; Wolfe and Acres disclose all the limitations recited in claim 1 and 53 from which claim 56 depends, and Acres further discloses wherein offering alternative enrollment incentives comprises offering a predetermined number of enrollment incentives, (abstract, col. 1:49-51 and col. 7:24-26) have a chart (predetermined) of amenities (incentives) and accrual points for the players to read (presenting alternatives), showing how much they would have earned with the amount of play so far. It is well-known in the art to show players what they are missing by not enrolling. It is obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate all the well-known marketing techniques of casino gaming to the casino player tracking systems of Wolfe and Acres.

25. Regarding claim 57; Wolfe and Acres discloses all the limitation of claim 49 from which claim 49 depends, and Acres further discloses wherein said at least one server is further configured to notify the at least one unenrolled player to enroll in said player tracking system (col. 7:24-30). It would have been obvious to one of ordinary skill

in the art at the time of applicant's invention to combine the player tracking enrollment incentive of Acres into the player tracking system of Wolfe to predictably entice the player into giving his/hers information and participating in the player tracking card system. Also it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to promote such an expensive feature by letting the players know that there is an advantage to playing while carded, as shown in Acres (col. 8:4-8), where players that are enrolled would get a higher amount of bonus award than those not in the system. This goes without saying that all promotional aspects in a casino are well advertised to maximize effect; it serves no purpose to award bonuses if people are not aware of their existence. So presenting, showing, or warning that the player may win a larger amount if enrolled in the system is obvious and part of the normal operation of any marketing tool.

26. Claims 11- 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe and Acres as applied to claim 1 above and in further view of Walker et al. (US 2004/0127284 A1), hereinafter "Walker '284".

27. Regarding claims 11-16; Wolfe and Acres discloses all the limitation of claim 1 from which claims 11-16 depend on; and Walker '284 discloses: wherein notifying the unenrolled player comprises visually notifying the unenrolled player; wherein notifying the unenrolled player comprises notifying the unenrolled player through a display associated with the gaming device; wherein notifying the unenrolled player comprises notifying the unenrolled player through an overhead sign; wherein the aural notification is emitted from the gaming device; wherein the aural notification is emitted from a speaker remote to the gaming device, (fig. 8:802, ¶[0662-0689]), wherein fig. 8 shows a reminder message to the player to register for the player tracking system and the rest shows all forms used by walker to effectively communicate to the players according to the urgency of the message.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teachings of player messaging of Walker '284 in Wolfe's invention

to further help the player's in the busy casino floor. It is obvious that Wolfe's system works better if the player is enrolled in the player tracking system and adding well-known messages to players that are not enrolled is a predictable use of the equipment already at hand.

28. Claims 17-22 and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe and Acres as applied to claim 1 above and in further view of Benoy.

29. Regarding the analogous combination; Benoy invention discloses the many facets of a player tracking systems as the system of Wolfe an Acres and is expressive on the details of self enrollment.

30. Regarding claim 17-22; Wolfe and Acres discloses all the limitation of claim 1 from which claims 17-22 depend on; and Benoy discloses wherein the unenrolled player is allowed to self enroll; wherein the unenrolled player is allowed to enroll through a terminal on the casino floor; wherein the terminal is unattended; wherein the unenrolled player is allowed to enroll at the gaming device; wherein the unenrolled player is allowed to enroll through a keypad associated with the gaming device; wherein the unenrolled player is allowed to enroll through a display associated with the gaming device, (col. 6:16-32). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Benoy with Wolfe and Acres, since all three are inventions related to player tracking systems and marketing schemes to attract players. The self enrollment system of Benoy would be easy to implement in any Casino Kiosk machine and obvious to try by any casino establishment that wishes to reduce lines at the registration booths or reduce staff.

31. Regarding claim 25; Wolfe and Acres discloses all the limitation of claim 1 from which claim 25 depend on; and Benoy discloses applying a credit to the newly enrolled player's account following enrollment, (col. 6:63-64, 7:30-31). It would have been

obvious to one of ordinary skill in the art at the time of applicant's invention to combine Benoy with Wolfe and Acres, since all three are inventions related to player tracking systems and marketing schemes to attract players. Allowing to add credits to the new account is the purpose of creating the account in the first place, and obvious to do (try).

32. Regarding claims 26-32; Wolfe and Acres discloses all the limitation of claim 1 from which claims 26-32 depend on; and Benoy discloses wherein the uncarded player account is a temporary account; wherein credit is applied to the temporary account; wherein the unenrolled player is permitted access to the credit following enrollment; wherein the credit is payable immediately; wherein the credit is payable on a future visit; wherein the credit is payable incrementally; wherein the temporary account is associated with a player identifier, (col. 18:29-59). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Benoy with Wolfe and Acres, since all three are inventions related to player tracking systems and marketing schemes to attract players. The temporary account of Benoy is necessary for a cashless system, yet it would be obvious to try it with Wolfe and Acres for players that wish to remain anonymous.

Examiner's Note

33. The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does

not criticize, discredit, or otherwise discourage the solution claimed "In re Fulton, 391 F.3d 1195, 1201,73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **FRANK M. LEIVA** whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art
Unit 3714

FML
03/16/2010.